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November 28, 2007

**VIA E-FILING**

The Honorable Mary Pat Thyng  
United States District Court  
Federal Building  
844 King Street  
Wilmington, Delaware 19801

Re: Vernetta Walker v. The News Journal and Ann Hines  
Civil Action No. 06-138-MPT

Dear Judge Thyng:

This letter serves to respond to plaintiff Ms. Walker's November 10, 2007 letter to the Court. On a matter that is not related to the litigation, I would normally respond directly to the plaintiff, but because Ms. Walker has filed a letter with the Court, I thought it best to also file my response with the Court.

Plaintiff contends that she was entitled to additional vacation pay for the calendar year 2004. However, vacation is earned or accrued as an employee works and is not earned in one lump amount at the beginning of each calendar year. To be more specific, Ms. Walker was a 16-year employee. Accordingly, she earned vacation at the rate of one day (seven hours) for every 12 days worked (84 hours worked) to a maximum of 20 days per year. In 2004, Ms. Walker worked 572 hours. Thus, she earned 47.67 hours in 2004 ( $572 \text{ hours} \div 84 \text{ hours} = 6.81 \text{ days} \times 7 \text{ hours/day}$ ). She had previously taken, prior to her medical leave of absence in April 2004, 24.50 hours of this 2004 vacation time. Thus, the remainder of the vacation hours earned for 2004 was 23.17 hours. Her hourly rate was \$17.3176. Thus, payment was made in the amount of \$401.25 ( $23.17 \times \$17.3176$ ) less appropriate tax deductions.

Attached please find The News Journal's vacation policy in effect at the time; specifically in 2004 at Exhibit A. Please note that the policy makes numerous references to "earned" and "earning" vacation time. This policy has always been administered such that an employee accrues or earns vacation as he or she works. This policy is applied consistently to all

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employees at The News Journal. Notably, if an employee leaves the company before the end of the calendar year, he or she is not paid for time not earned.

In response to the vacation request forms Ms. Walker attached to her November 10, 2007 letter at Exhibit 4, these simply are internal department forms used to expedite vacation scheduling. These forms assume, when asking employees to schedule vacation, that the employee will work the full year and earn the maximum vacation time given his or her length of service. However, this form does not impact the way vacation time is calculated or paid to employees who leave prior to the end of the calendar year.

The News Journal made clear in its letter to Ms. Walker dated October 23, 2007 (attached to Ms. Walker's letter as Exhibit 1) that payment of the vacation time did not indicate any admission of liability as to this lawsuit. The News Journal was simply correcting an inadvertent error it had discovered during the course of the litigation. The News Journal should not be penalized in any way for paying Ms. Walker what she was due. However, she has now been paid all vacation time due. Further, this error could have been corrected much earlier had Ms. Walker simply called the HR Department to question the vacation issue in 2004. If so, the company would have immediately rectified the problem at that time.

In sum, it is The News Journal's position that Ms. Walker should cash the check for vacation time and that the vacation issue has been fully rectified. If Your Honor needs further information, please do not hesitate to contact me.

Respectfully,



Jennifer C. Jauffret

JCB/kdm

cc: Ms. Vernet Walker (via first class mail)  
Peter T. Dalleo, Clerk (via hand delivery)  
Ms. Dolores Pinto (via e-mail)

# **EXHIBIT A**

additional information.

#### TUITION REIMBURSEMENT

The News Journal Company offers full-time employees financial support in the form of tuition refund for approved courses or training that can be expected to improve your ability to do your job or increase your qualifications for current or future positions within the company. See Personnel for details.

#### UNITED STATES SAVINGS BONDS

The News Journal offers you the opportunity to purchase U.S. Savings Bonds through payroll deduction.

Enrollment forms and additional information on the program are available from Personnel.

#### VACATION

The vacation year is the calendar year. All requests for vacation must be submitted to your manager for advance approval. Vacation scheduling is based on three factors: your stated time preference, the operational needs of your department, and your length of service in the department.

With your manager's approval, you may take vacation in advance of earning it. If you leave the company, any vacation taken but not earned will be deducted from your final paycheck. Vacation cannot be carried from one year to the next without prior approval of your supervisor and your department head and, if approved, must be taken within the first quarter of the following year.

Although length of service is important, your first choice of dates is given greatest precedence for your

first and second weeks of vacation. Your preference for scheduling additional weeks becomes secondary to the vacation requests of newer employees who are eligible for less vacation time.

Approval from your department head and the Publisher is required for scheduling more than two consecutive weeks of vacation.

New employees earn one (1) day for each twenty-five (25) days worked to a maximum of ten vacation days and may take vacation following the successful completion of their introductory period.

All other vacation eligibility is based on the years of service completed by January 1 of the current year. Three years service earns 15 days of vacation; 10 years service earns 20 days; 25 years service earns 25 days.

Should you leave The News Journal for any reason, you will be paid for unused vacation just as any vacation taken but not earned will be deducted from your final check. If you leave with less than a full year of service you will be eligible for one day of vacation for each 25 days worked not to exceed 10 days if you have successfully completed the introductory period.